



101 Park Avenue, 17th Floor  
New York, NY 10178  
Tel (212) 878-7900 Fax (212) 692-0940  
www.foxrothschild.com

JAMES M. LEMONEDES  
Direct No: 212.878.7918  
Email: J.Lemonedes@FoxRothschild.com

July 3, 2018

**Via ECF**

Hon. Frederic Block, USDJ  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: Gaston v Valley National Bancorp, et al., 17-cv-01886 (FB)(SMG)

Your Honor:

We represent Defendants Valley National Bancorp and Valley National Bank (hereinafter collectively “Defendants” or “the Bank”) in the above-referenced matter, and submit this correspondence in furtherance of Defendants’ Rule 72 Objections to Magistrate Judge Gold’s December 6, 2017 decision to grant FLSA conditional certification in this matter. *See* Doc. Nos. 41 and 44–48.

Although the parties have been attempting to resolve this action through mediation (*see* Doc. Nos. 49-51) and they are currently attempting to schedule another mediation date, to this point, the parties have been unable to resolve this matter. In the event that the parties are unable to resolve this matter in mediation, Defendants will be requesting the Court to address their Rule 72 Objections to Magistrate Judge Gold’s decision granting FLSA conditional certification, vacate that decision, and deny conditional certification in this matter. Moreover, in further support of Defendants’ Objections, we respectfully advise the Court of a recent decision that is particularly applicable to the facts of this action, *Brown, et al v. Barnes and Noble, Inc.*, 1:16-cv-07333 (RA)(KHP) decided on June 25, 2018, in the Southern District of New York. A copy of *Brown* is attached as Exhibit “A” for the Court’s convenience.

Defendants respectfully assert that the arguments presented by the Plaintiffs in *Brown* are substantially similar to those presented in the instant action – that plaintiffs performed non-

A Pennsylvania Limited Liability Partnership

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Fox Rothschild LLP  
ATTORNEYS AT LAW

**Lemonedes to Hon Fredrec Block, USDJ**  
***Gaston v Valley National Bancorp, et al.*, 17-cv-01886 (FB)(SMG)**  
**July 3, 2018; Page 2**

managerial duties for a majority of their workday and therefore should not be classified as exempt under the FLSA. After careful consideration of the arguments, the Court in *Brown* denied the application seeking conditional certification. In the event that the parties need to proceed with the Objection to Magistrate Judge Gold's December 6, 2017 decision, Defendants respectfully request the opportunity to update their Objections to include an analysis of the Brown decision.

Defendants respectfully thank Your Honor for your consideration of this matter

Respectfully submitted,  
/s/  
James M. Lemonedes

JML:jm  
cc: all counsel via ECF